

# **EXHIBIT 28**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION  
CASE NO. 4:20-cv-03919-CW

GRANT HOUSE and SEDONA PRINCE, )  
on behalf of themselves and all )  
others similarly situated, )

Plaintiffs, )

-vs- )

NATIONAL COLLEGIATE ATHLETIC )  
ASSOCIATION; PAC-12 CONFERENCE; )  
THE BIG TEN CONFERENCE, INC.; )  
SOUTHEASTERN CONFERENCE; and )  
ATLANTIC COAST CONFERENCE, )

Defendants. )

NETWORK STRICTLY CONFIDENTIAL

The 30(b)(6) videotaped deposition upon oral examination of Jennifer Fraser, a witness produced and sworn before me, Dana S. Miller, RPR, CRR, a Notary Public in and for the County of Boone, State of Indiana, taken on behalf of the Plaintiffs at the offices of Faegre Drinker Biddle & Reath LLP, 300 North Meridian Street, Suite 2500, Indianapolis, Marion County, Indiana, on the 14th day of September, 2023, at 9:10 a.m., pursuant to the Federal Rules of Civil Procedure.

1 Q Oh, thank you.

2 A Appreciate it.

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6 Do you see that?

7 A I do.

8 Q And in the next kind of large bullet point, it

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12 Do you see that?

13 A I do.

14 Q Does that reflect that the Transformation Committee  
15 considered direct NIL payments from institutions to  
16 be a different thing than straight pay-for-play?

17 A It did.

18 MS. ARAT: Object to form.

19 THE WITNESS: I'm sorry, Cali.

20 A It did.

21 (Deposition Exhibit(s) 251 marked for  
22 identification.)

23 THE WITNESS: Thank you.

24 Q Ms. Fraser, the court reporter is handing you  
25 Exhibit 250. This is --

1        were permissible, and I think this is suggesting  
2        that the publishing of the value of the awards  
3        required to award on a gender-equitable basis is a  
4        commitment that's being recommended by the Board of  
5        Governors Congressional Subcommittee. I don't read  
6        it as being like legislative recommendation as much  
7        as a commitment to those things.

8        Q    Okay. I will say that the first bullet here says

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10       doesn't include any limit on it that I understand  
11       academic performance awards to have been allowed  
12       only up to a certain limit.

13                So my question is whether this is suggesting  
14       consideration of unlimited academic performance  
15       awards?

16                MS. ARAT: Object to the form.

17       A    No, I don't believe it was.

18       Q    Okay. I'm going to ask you to flip a couple of

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21       A    Sure.

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Do you see that?

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A I do.

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Do you see that?

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A I do.

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Do you see that?

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A I do.

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Do you see that?

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A I do.

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Q Yesterday you testified, and I think you testified

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earlier, that these changes were not part of the

1 Transformation Committee's recommend -- final  
2 recommendations; correct?

3 A That's right.

4 Q But as the 30(b)(6) witness, you would admit that  
5 the Cooperative Congressional Subcommittee Board  
6 did submit them to the Board of Governors for  
7 consideration; is that correct?

8 A I agree.

9 MS. ARAT: Object to the form.

10 THE WITNESS: Oh, sorry.

11 A I agree with that.

12 Q So that suggestion included institutional NIL  
13 payments to athletes for NIL and a potential  
14 revenue share to student-athletes; correct?

15 MS. ARAT: Object to form.

16 A Those were concepts that were considered.

17 Q Okay.

18 (Deposition Exhibit(s) 253 marked for  
19 identification.)

20 THE WITNESS: I'm getting my weightlifting in  
21 this morning. Thank you.

22 MS. PARSIGIAN: I promised Clayton we wouldn't  
23 get to 300 so -- or past 300.

24 Q The court reporter had hand -- has handed you  
25 Exhibit 253. This is Bates number

1 they've responded, sought, you know, NIL  
2 opportunities to receive additional compensation  
3 and benefits.

4 Q Okay. One of the justifications that has been  
5 offered relates to Title 9 and gender equity.

6 Is that consistent with your understanding?

7 A Yes.

8 Q Title 9 is a federal law --

9 UNIDENTIFIED ZOOM ATTENDEE: Unmute the stream  
10 if you could.

11 A Title 9 is a federal law.

12 Q Is a -- are we -- Title 9 is a federal law that  
13 applies to NCAA member institutions; correct?

14 A Yes, in addition to other institutions of higher  
15 education.

16 Q Why would additional NCAA rules be needed to get  
17 member institutions to comply with a federal law?

18 MS. ARAT: Object to form.

19 A Well, institutions are required to comply with the  
20 federal law. The regulations that exist promote  
21 compliance with Title 9 and promote the principle  
22 of gender equity by way of broad-based sports  
23 sponsorship, numbers of opportunities for  
24 student-athletes throughout Division I.

25 Q So they're not needed, it's your position that they

1 help members comply?

2 MS. ARAT: Object to form.

3 A Did I understand your -- did I hear your initial  
4 question that additional regulations, the word  
5 additional was in there?

6 Q In addition to Title 9.

7 MS. ARAT: Object to form.

8 A Thank you. So because the NCAA as an entity isn't  
9 the enforcer of Title 9, the rules and regulations  
10 that exist for its member institutions promote  
11 gender equity and also aim to not put those  
12 institutions in a position to be out of compliance  
13 with Title 9.

14 Q So your position is that it helps them comply?

15 MS. ARAT: Object to form.

16 A That would -- yes.

17 Q Is it your position that the rules and regulations  
18 that are challenged in this litigation are --  
19 strike that.

20 The NCAA rules require Division I schools to  
21 field a certain number of women's teams; correct?

22 A They require a certain number of sports sponsors,  
23 yes.

24 Q Including requiring a certain number of women's  
25 teams --



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Do you see that?

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MS. ARAT: So I'm just -- I have no reason to believe that these are not accurate numbers. I suspect that you have done this completely correctly, but because I don't have the numbers in front of me, I just am going to put a preservation objection on the record here to make sure that everything gets checked out as accurate.

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BY MS. PARSIGIAN:

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2 A That is what is reflected here, yes.

3 Q Has the NCAA done studies on this before?

4 A Not to my knowledge. The NCAA is not the enforcer  
5 of Title 9.

6 Q Okay. Thank you. Have you done -- has the NCAA  
7 done studies regarding any Title 9 issues that have  
8 come up in relation to third-party NIL payments?

9 A No, not to my knowledge.

10 Q Okay. I'm going to ask you to go back to the  
11 deposition notice that was the first document that  
12 we marked today. Can you remind me what the  
13 exhibit number of that is?

14 A 245.

15 Q Okay. And I'm going to ask you to turn to page 3  
16 to the third bullet. And that reads, "Facts  
17 supporting the NCAA's contention that the challenge  
18 rules are needed to expand output and avoid a  
19 reduction in athletic opportunities," and then it  
20 lists some additional information -- details about  
21 that topic.

22 Do you see that?

23 A I do, yes.

24 Q And you understand that you're designated on that  
25 topic?

1 A I do.

2 Q Does the NCAA have rules about the minimum number  
3 of sports that a school has to offer to be part of  
4 Division I?

5 A It does.

6 Q And is the rule that a school must offer 14 sports  
7 if they're part of Division I, and if they're part  
8 of FBS they have to offer 16 sports; is that  
9 correct?

10 A That is accurate. That one I knew.

11 Q Okay. So that rule, which is not challenged in  
12 this litigation, serves to maintain output of  
13 athletic participation opportunities for  
14 student-athletes; correct?

15 A What I -- I would say it just slightly different.  
16 Output isn't a word that I would use, although I  
17 know that it's noted here. It ensures that there's  
18 broad-based sport participation opportunities.

19 Q Okay.

20 A Yes.

21 Q And since schools have moved to paying Alston  
22 awards, has there been a reduction in the number of  
23 sports offered?

24 MS. ARAT: Object to form.

25 A You know, annually sport -- schools, pardon me,

1 Q And this says, "The challenged conduct serves the  
2 procompetitive goal of expanding output, promoting  
3 competitive balance between and among NCAA member  
4 institutions, and improving the quality of college  
5 education and athletic competition," and then it  
6 goes on with some detail.

7 We've talked about some of this today, but I  
8 want to talk about the portion about promoting  
9 competitive balance.

10 A Okay.

11 Q Do Division I schools have significant differences  
12 among them in their total athletic budgets  
13 annually?

14 A Yes.

15 Q Do they have different amounts that they're able to  
16 spend on facilities?

17 A Yes.

18 Q What about coaching?

19 A Yes.

20 Q Training?

21 A Overall budgets, yes.

22 Q So there are significant differences already in  
23 their ability to compete both on the field and to  
24 recruit student-athletes; correct?

25 MS. ARAT: Object to form.

1 A There are differences in athletic budgets, yes.

2 Q Okay. And the NCAA doesn't regulate any of that  
3 spending? I think we talked about that earlier.

4 MS. ARAT: Object to form.

5 A The actual dollar figures, no.

6 Q Okay.

7 A The regulations are in the areas of things like all  
8 Division I institutions have the same number of  
9 recruiting days that can be used. And so, there's  
10 an equitable treatment there based on those types  
11 of elements, but not in the total dollar output,  
12 no.

13 Q Do -- does having additional financial resources  
14 allow some schools to have an advantage in  
15 recruiting?

16 MS. ARAT: Object to form.

17 A I can't say.

18 Q Okay. Let's look back at Exhibit 248.

19 A Is that from today, too?

20 Q Yes.

21 A Okay. Okay.

22 Q This is the FSLWG final report?

23 A Yes.

24 Q And I will ask you to look at page 6.

25 A Okay.

1 STATE OF INDIANA )  
2 ) SS:  
3 COUNTY OF BOONE )

4 I, Dana S. Miller, RPR, CRR, a Notary Public in  
5 and for the County of Boone, State of Indiana at  
6 large, do hereby certify that JENNIFER FRASER, the  
7 deponent herein, was by me first duly sworn to tell  
8 the truth, the whole truth, and nothing but the  
9 truth in above-captioned cause.

10 That the foregoing deposition was taken on  
11 behalf of the Plaintiffs at the offices of Faegre  
12 Drinker Biddle & Reath LLP, 300 North Meridian  
13 Street, Suite 2500, Indianapolis, Marion County,  
14 Indiana, on the 14th day of September, 2023,  
15 pursuant to the Applicable Rules.

16 That said deposition was taken down in  
17 stenograph notes and afterwards reduced to  
18 typewriting under my direction, and that the  
19 typewritten transcript is a true record of the  
20 testimony given by said deponent; and thereafter  
21 presented to said deponent for his/her signature;

22 That the parties were represented by their  
23 aforementioned counsel;

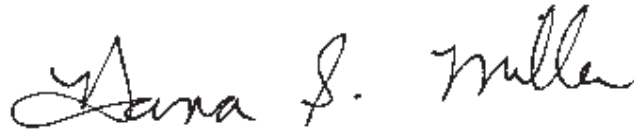
24 I do further certify that I am a disinterested  
25 person in this cause of action; that I am not a  
relative or attorney of either party, or otherwise

JENNIFER FRASER 30b6 - Network Strictly Confidential  
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1 interested in the event of this action, and am not  
2 in the employ of the attorneys for either party.

3 IN WITNESS WHEREOF, I have hereunto set my hand  
4 and affixed my notarial seal this 18th day of  
5 September, 2023.

6   
7

8 Dana S. Miller

9 Commission Number 0675790

10 My Commission Expires:  
11 January 17, 2024  
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**DEPOSITION ERRATA SHEET**

Case Name: In Re: College Athlete NIL Litigation

Deposition Date: September 14, 2023

Deponent: Jennifer Fraser—30(b)(6)

<b>Pg.</b>	<b>No.</b>	<b>Now Reads</b>	<b>Should Read</b>	<b>Reason</b>
16	11	indicated that	indicating that	Transcription error
35	19	<b>for</b> conferences	or conferences	Transcription error
36	10	<b>as</b> a designation	is a designation	Typographical error
39	5,8,11,12,21	Title <b>9</b>	Title <b>IX</b>	Typographical error
40	6,9,13	Title <b>9</b>	Title <b>IX</b>	Typographical error
40	22	sports sponsors	sports sponsored	Transcription error
43	5	Title <b>9</b>	Title <b>IX</b>	Typographical error
44	8	Title <b>9</b>	Title <b>IX</b>	Typographical error
46	5,7	Title <b>9</b>	Title <b>IX</b>	Typographical error
49	24	<b>Uh</b> -huh	<b>Nuh</b> -huh	Typographical error
51	11	challenge rules	challenged rules	Typographical error
52	5	Title <b>9</b>	Title <b>IX</b>	Typographical error
64	1	Specific	specifics	Typographical error
74	25	well into the	well in the	Transcription error
80	24	challenge rules	challenged rules	Typographical error
83	15	there was new source	there was <b>a</b> new source	Transcription error
122	19	that's <b>where</b> it states	that's <b>what</b> it states	Transcription error
128	20	Division I <b>Sec</b>	Division I <b>SAAC</b>	Transcription error
151	21	challenged <b>roles</b>	challenged <b>rules</b>	Transcription error



Jenn Fraser

October 30, 2023